(e) The threshold identified in paragraph (b) of this section and the bond values identified in paragraph (d) of this section are in 2008 dollars. Adjust these values in 2010 and later calendar years by comparing the Consumer Price Index values published by the Bureau of Labor Statistics for the preceding June and June 2008 (see *ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt*). Round calculated values for the thresholds and for total bond obligations to the nearest thousand dollars.

(f) You may meet the bond requirements of this section by obtaining a bond from a third-party surety that is cited in the U.S. Department of Treasury Circular 570, ''Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies'' (*http://www.fms.treas.gov/c570/c570.html#certified*). You must maintain this bond for every year in which you sell certified engines. The surety agent remains responsible for obligations under the bond for two years after the bond is cancelled or expires without being replaced.

(g) If you forfeit some or all of your bond in an enforcement action, you must post any appropriate bond for continuing sale within 90 days after you forfeit the bond amount.

(h) You will forfeit the proceeds of the bond posted under this section if you need to satisfy any United States administrative settlement agreement, administrative final order, or judicial judgment against you arising from your violation of this chapter, or violation of 18 U.S.C. 1001, 42 U.S.C. 7413(c)(2), or other applicable provisions of the Clean Air Act.

(i) If you are required to post a bond under this section, you must note that in your application for certification as described in §1054.205. Your certification is conditioned on your compliance with this section. Your certificate is automatically suspended if you fail to comply with the requirements of this section. We may also revoke your certificate.

(j) The following provisions apply if you import engines for resale when those engines have been certified by someone else (or equipment containing such engines):

(1) You and the certificate holder are each responsible for compliance with the requirements of this part and the Clean Air Act. For example, we may require you to comply with the warranty requirements in §1054.120.

(2) You do not need to post bond if you or the certificate holder complies with the bond requirements of this section. You also do not need to post bond if the certificate holder complies with the asset requirements of this section and the repair-network provisions of §1054.120(f)(4).

[73 FR 59259, Oct. 8, 2008, as amended at 74 FR 8426, Feb. 24, 2009; 75 FR 23025, Apr. 30, 2010]

Subpart H—Averaging, Banking, and Trading for Certification

§1054.701 General provisions.

(a) You may average, bank, and trade (ABT) emission credits for purposes of certification as described in this subpart to show compliance with the standards of this part. This applies for engines with respect to exhaust emissions and for equipment with respect to evaporative emissions. Participation in this program is voluntary.

(b) The definitions of subpart I of this part apply to this subpart. The following definitions also apply:

(1) *Actual emission credits* means emission credits you have generated that we have verified by reviewing your final report.

(2) *Averaging set* means a set of engines (or equipment) in which emission credits may be exchanged only with other engines (or equipment) in the same averaging set.

(3) *Broker* means any entity that facilitates a trade of emission credits between a buyer and seller.

(4) *Buyer* means the entity that receives emission credits as a result of a trade.

(5) *Family* means engine family for exhaust credits or emission family for evaporative credits.

(6) *Reserved emission credits* means emission credits you have generated that we have not yet verified by reviewing your final report.

(7) *Seller* means the entity that provides emission credits during a trade.

(8) *Standard* means the emission standard that applies under subpart B of this part for engines or fuel-system components not participating in the ABT program of this subpart.

(9) *Trade* means to exchange emission credits, either as a buyer or seller.

(c) The use of emission credits is limited to averaging sets, as follows:

(1) You may not average or exchange exhaust credits with evaporative credits, or vice versa.

(2) Handheld engines and nonhandheld engines are in separate averaging sets with respect to exhaust emissions except as specified in §1054.740(e). You may use emission credits generated under 40 CFR part 90 for handheld engines subject to the standards in §1054.103 only if you can demonstrate that those credits were generated by handheld engines, except as specified in §1054.740(e). You may use emission credits generated under 40 CFR part 90 for nonhandheld engines only if you can demonstrate that those credits were generated by nonhandheld engines, subject to the provisions of §1054.740.

(3) Equipment using handheld engines and equipment using nonhandheld engines are in separate averaging sets with respect to evaporative emissions. You may not average or exchange evaporative credits between either of these averaging sets.

(4) For purposes of calculating emission credits under this subpart, engines with displacement at or below 80 cc are presumed to be handheld engines. You may treat these as nonhandheld engines for calculating exhaust or evaporative emission credits only for those engines you can demonstrate will be installed in nonhandheld equipment. For example, if 50 percent of engines in a family will be used in nonhandheld equipment, you may calculate the emission credits for 50 percent of the engines to be nonhandheld credits. Use the specified calculation methods for handheld engines to quantify positive or negative exhaust emission credits for all engines at or below 80 cc.

(d) You may not generate evaporative credits based on permeation measurements from metal fuel tanks.

(e) You may not use emission credits generated under this subpart to offset any emissions that exceed an FEL or standard. This applies for all testing, including certification testing, in-use testing, selective enforcement audits, and other production-line testing. However, if exhaust emissions from an engine exceed an exhaust FEL or standard (for example, during a selective enforcement audit), you may use emission credits to recertify the family with a higher FEL that applies only to future production.

(f) Emission credits may be used in the model year they are generated (averaging) and in future model years (banking). Emission credits may not be used for past model years.

(g) You may increase or decrease an exhaust FEL during the model year by amending your application for certification under §1054.225. See 40 CFR 1060.225 for provisions related to changing an FEL for fuel tank permeation.

(h) Engine and equipment manufacturers certifying with respect to evaporative emissions may use emission credits to demonstrate compliance under this subpart. Component manufacturers may establish FELs for their certified products, but they may not generate or use emission credits under this subpart.

(i) In your application for certification, base your showing of compliance on projected production volumes for engines or equipment intended for sale in the United States. As described in §1054.730, compliance with the requirements of this subpart is determined at the end of the model year based on actual production volumes for engines or equipment intended for sale in the United States. Do not include any of the following engines or equipment to calculate emission credits:

(1) Engines or equipment exempted under subpart G of this part or under 40 CFR part 1068.

(2) Engines or equipment intended for export.

(3) Engines or equipment that are subject to state emission standards for that model year. However, this restriction does not apply if we determine that the state standards and requirements are equivalent to those of this part and that products sold in such a state will not generate credits under the state program. For example, you

may not include engines or equipment certified for California if California has more stringent emission standards for these products or if your products generate or use emission credits under the California program.

(4) Engines or equipment not subject to the requirements of this part, such as those excluded under §1054.5.

(5) Any other engines or equipment where we indicate elsewhere in this part 1054 that they are not to be included in the calculations of this subpart.

§1054.705 How do I generate and calculate exhaust emission credits?

The provisions of this section apply for calculating exhaust emission credits. You may generate exhaust emission credits only if you are a certifying engine manufacturer.

(a) For each participating family, calculate positive or negative emission credits relative to the otherwise applicable emission standard. Calculate positive emission credits for a family that has an FEL below the standard. Calculate negative emission credits for a family that has an FEL above the standard. Sum your positive and negative credits for the model year before rounding. Round the sum of emission credits to the nearest kilogram (kg) using consistent units throughout the following equation:

$$\text{Emission credits (kg)} = (\text{STD} - \text{FEL}) \times (\text{Volume}) \times (\text{Power}) \times (\text{UL}) \times (\text{LF}) \times (10^{-3})$$

Where:

STD = the emission standard, in g/kW-hr.

FEL = the family emission limit for the family, in g/kW-hr.

Volume = the number of engines eligible to participate in the averaging, banking, and trading program within the given family during the model year, as described in §1054.701(i).

Power = the maximum modal power of the emission-data engine as calculated from the applicable test procedure described in subpart F of this part, in kilowatts.

UL = the useful life for the given family, in hours.

LF = load factor. Use 0.47 for nonhandheld engines and 0.85 for handheld engines. We may specify a different load factor if we approve the use of special test procedures for a family under 40 CFR 1065.10(c)(2), consistent with good engineering judgment.

(b) [Reserved]

§1054.706 How do I generate and calculate evaporative emission credits?

The provisions of this section apply for calculating evaporative emission credits related to fuel tank permeation. You may generate credits only if you are a certifying equipment manufacturer. This may include engine manufacturers that make engines with complete fuel systems as described in §1054.2.

(a) For each participating family, calculate positive or negative emission credits relative to the otherwise applicable emission standard. Calculate positive emission credits for a family that has an FEL below the standard. Calculate negative emission credits for a family that has an FEL above the standard. Sum your positive and negative credits for the model year before rounding. Round the sum of emission credits to the nearest kilogram (kg) using consistent units throughout the following equation:

$$\text{Emission credits (kg)} = (\text{STD} - \text{FEL}) \times (\text{Total Area}) \times (\text{UL}) \times (\text{AF}) \times (365) \times (10^{-3})$$

Where:

STD = the emission standard, in g/m^2/day.

FEL = the family emission limit for the family, in g/m^2/day, as described in paragraph (b) of this section.

Total Area = The combined internal surface area of all fuel tanks in the family, taking production volume into account, in m^2.

UL = 5 years, which represents the useful life for the given family.

AF= adjustment factor. Use 1.0 for testing at 28 °C; use 0.60 for testing at 40 °C.

(b) For calculating credits under paragraph (a) of this section, the emission standard and FEL must both be based on test measurements at the same temperature (28 ° or 40 °C). Determine the FEL for calculating emission credits relative to testing at 28 °C as described in paragraphs (b)(1) and (2) of this section. Determine the FEL for calculating emission credits relative to testing at 40 °C as described in paragraph (b)(3) of this section.

(1) To use an FEL below 5.0 g/m^2/day, it must be based on emission measurements.